

The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. Consequently, if a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 220.115. (This is a GIL.)

April 18, 2006

Dear Xxxxx:

This letter is in response to your letter dated February 14, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.tax.illinois.gov to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I had a telephone conversation with INDIVIDUAL, State of Illinois Department of Revenue, on December 13, 2005. We discussed examples of ways in which our company could ship products into or from locations in the State of Illinois. As a part of my documentation and to add credibility to the amounts we are charging our customers for tax, I am requesting a written letter ruling on the examples below:

1. If the order is taken, and the price is set in CITY, IL, charge CITY tax.
2. If the order is taken, and the price is set in Michigan, charge the tax, based on inventory location shipped from, in Illinois.
3. If the order is taken in CITY, IL and the shipment is to another state by common carrier or our truck, the other State's rate will apply and the sale is not taxable for Illinois.
4. If the order is a pickup in Illinois, the place where the order is taken and the price accepted in Illinois is the proper rate to use.

5. If the order is taken in Michigan and shipped from a Michigan inventory, to a location in Illinois, the Illinois state rate will apply.

Your assistance in assurance is very much appreciated.

If you have questions or require further information I can be contacted during normal business hours at my direct dial number or by e-mail

DEPARTMENT'S RESPONSE:

For general information please see 86 Ill. Adm. Code 220.115 of the Home Rule County Retailers' Occupation Tax for guidance concerning jurisdictional questions. In general, the imposition of the various sales-tax-related local taxes in Illinois are triggered when "selling" occurs in a jurisdiction imposing a tax. The Department's opinion is that the most important element of selling is the seller's acceptance of the purchase order. If a purchase order is accepted in a jurisdiction that imposes a local tax, that tax will be incurred. See 86 Ill. Adm. Code 220.115. Conversely, if a purchase order is accepted in a jurisdiction that does not impose a local tax, including anywhere outside Illinois, no local tax will be incurred.

The tax rate is fixed by the location of the seller, not the delivery location. The fact that the item being sold is shipped from out-of-State or from another Illinois location is immaterial for purposes of local taxes if the sale occurs through order acceptance in an Illinois jurisdiction imposing a local tax. For these transactions the local tax will be incurred. Although 86 Ill. Adm. Code 220.115 deals with the county home-rule taxes, the principles outlined in this administrative rule apply to all local taxes administered by the Department.

If a purchase order is accepted outside the State, but the property being sold is located in the inventory of the retailer in an Illinois jurisdiction that has imposed a local tax (see, for example, Section 220.115(c)(2)), then the location of the property at the time of sale will determine where the seller is engaged in business for the purpose of determining the imposition of applicable local sales taxes.

No tax is incurred on sales in which the seller is obligated, under the terms of his or her agreement with the purchaser, to make physical delivery of the goods from a point in this State to a point outside this State, not to be returned to a point within this State, provided that the delivery is actually made. See 86 Ill. Adm. Code 130.605(b)

I hope this information is helpful. If you require additional information, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Edwin E. Boggess
Associate Counsel

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